

**Before the
Federal Communications Commission
Washington, D.C. 20554**

In the Matter of)	
)	
Applications of)	
)	
Comcast Corp.,)	
Time Warner Cable Inc.,)	MB Docket No. 14-57
Charter Communications, Inc., and)	
SpinCo)	
)	
For Consent To Assign or)	
Transfer Control of)	
Licenses and Authorizations)	

REPLY COMMENTS

Bright House Networks, LLC (“Bright House Networks”) hereby responds to the Reply Comments filed jointly by the ABC Television Affiliates Association, CBS Television Network Affiliates Association, and the FBC Television Affiliates Association (collectively, the “Affiliate Associations”) in the above-referenced proceeding. The Affiliate Associations urge the Commission to prohibit Comcast from negotiating for retransmission consent on behalf of Bright House Networks and other multi-channel video programming distributors (“MVPDs”). In so doing, they disregard Bright House Networks’ longstanding operation under the Time Warner Entertainment-Advance/Newhouse Partnership (“TWE-A/N”) and the consumer benefits associated with that longstanding relationship.

Significantly, the Affiliate Associations offer no logical basis for their requested restriction on Comcast’s retransmission consent negotiation authority. Their arguments reflect economic self-interest in securing additional negotiating leverage beyond the status quo today and do not identify *bona fide* anticompetitive concerns. Given the rapid increase in

retransmission consent fees, the results advocated by the Affiliate Associations are, of course, directly counter to the public interest.

I. BRIGHT HOUSE NETWORKS HAS OPERATED UNDER THE TWE-A/N PARTNERSHIP FOR A DOZEN YEARS, AND THAT RELATIONSHIP HAS BENEFITTED CONSUMERS.

TWE-A/N was formed in 1995, when Advance/Newhouse Partnership (“A/N”) and Time Warner Entertainment Company, L.P.(“TWE”), a subsidiary of Time Warner Cable Inc. (“TWC”), each contributed existing cable assets to form a single operating entity. In 2002, the parties restructured TWE-A/N, so as to create Bright House Networks as a separate operating entity. As a result of this restructuring, cable systems serving approximately 2.1 million video subscribers were transferred from TWE-A/N to Bright House Networks. As explained in Comcast’s Public Interest Statement, TWC retains ownership of 66.67 percent of TWE-A/N, which in turn is the sole member of Bright House Networks, but TWE-A/N does not control Bright House Networks’ operations. Rather, A/N currently has (and will retain post-transaction) all economic ownership interest in Bright House Networks, as well as exclusive day-to-day management responsibility for and *de facto* control over the operation of the Bright House Network systems. A/N’s 33.33 percent interest in TWE-A/N exclusively tracks the economic performance of the Bright House Networks systems and, as a result, TWC’s financial statements do not include the results of the Bright House Networks systems.

In creating Bright House Networks more than a decade ago, the parties to the TWE-A/N partnership deliberately retained certain business arrangements between TWC and Bright House Networks, including a services agreement under which TWC provides various support services to Bright House Networks for an annual fee. That arrangement enables Bright House Networks to obtain a host of products and services that facilitate its offering of video, broadband Internet

access, and voice services, but leaves Bright House Networks with the freedom to independently operate all of its systems.

Bright House Networks clearly has derived substantial benefits from its longstanding relationship with TWC. It has gained access to technology, equipment, and programming on more favorable terms than it could achieve independently. These resources have allowed Bright House Networks to be a more efficient and effective provider of cable, broadband, and voice service and a more rigorous competitor. Over the past dozen years, Bright House Networks has done its very best to enhance its service with the benefit of these arrangements. By relying on TWC for various support functions, Bright House Networks has been able to concentrate its own efforts on delivering the best possible cable, broadband, and voice service to its residential and business customers.

Bright House Networks is not a party to the Comcast/TWC Agreement. From Bright House Network's perspective, the pending transaction simply provides an opportunity for Comcast to replace TWC in the existing TWE-A/N partnership and assume TWC's established role in providing Bright House Networks with valuable operating support. Notwithstanding the efforts of the Affiliate Associations, Bright House Networks should *not* be denied the business relationships and benefits it secured more than a decade ago in restructuring the TWE-A/N partnership. To the extent TWC historically has negotiated retransmission consent agreements on behalf of Bright House Networks, the Affiliate Associations fail to explain why the Commission should preclude Comcast from assuming that same role. Bright House Networks respectfully submits that the regulatory condition requested by the Affiliate Associations would burden, rather than benefit, consumers.

II. THE UNIQUE STATUS OF BRIGHT HOUSE NETWORKS BELIES THE AFFILIATE ASSOCIATIONS' PURPORTED FEARS OF COMCAST DRAMATICALLY EXPANDING ITS RETRANSMISSION CONSENT AUTHORITY.

Although the Affiliate Associations contend that it is “essential” the Commission act to preclude Comcast from negotiating retransmission consent agreements on behalf of “every other MVPD in every other local television market in which Comcast operates,”¹ nowhere do they explain why the pending transaction between TWC and Comcast makes that outcome any more likely. To the extent Comcast negotiates retransmission consent agreements for Bright House Networks in the future, it would not represent the dramatic consolidation in the retransmission consent marketplace suggested by the Affiliate Associations, as TWC already frequently fulfills that function for Bright House Network. Moreover, as explained above, the Bright House Networks situation is unique – with the underlying TWE-A/N partnership dating back nearly two decades. Comcast’s assumption of TWC’s place in that partnership certainly does not mean that Comcast could “coordinate retrans negotiations . . . with every other MVPD in every local television market in which Comcast operates.”²

III. THE AFFILIATE ASSOCIATIONS HAVE NOT EXPLAINED WHY THE REQUESTED REGULATORY RESTRAINT REGARDING BRIGHT HOUSE NETWORKS IS NECESSARY.

With regard to Bright House Networks itself, the Affiliate Associations identify just two Bright House television markets (Tampa and Indianapolis) to support their regulatory request.³ The Indianapolis example is entirely irrelevant, as Comcast already has applications pending to

¹ Affiliate Associations Reply Comments at 10.

² *Id.*

³ *Id.* at 8.

divest its cable systems in that market, and the Affiliate Associations fail to identify any meaningful problem in the Tampa DMA.

A review of the Affiliate Associations' Reply Comments reveals that their regulatory request is more related to their disappointment with the Commission's recent decision barring local broadcasters from engaging in joint retransmission consent negotiations⁴ than to *bona fide* concerns regarding any anticompetitive implications of the Comcast/TWC transaction. The Reply Comments also fail to acknowledge that the joint *sales* arrangements the Affiliate Associations support are generally viewed unfavorably from an antitrust perspective, whereas the joint *purchase* arrangements they oppose are generally viewed favorably, as pro-competitive activities.⁵ In advancing their own agendas, the Affiliate Associations clearly have forsaken the public interest that underlies the Commission's review.

In any event, the Tampa broadcast stations represented by the Affiliate Associations are hardly in need of special regulatory protection. The local FOX station (WTVT) is owned and operated by Fox, the local CBS affiliate (WTSP) is owned by Gannett, and the local ABC affiliate (WFTS) is owned by Scripps. Each of these entities is clearly capable of holding its own in retransmission consent negotiations with any MVPD, including Comcast. In fact, BHN's aggregate retransmission consent fees with the three network affiliates at issue here (even while operating under agreements negotiated by TWC) have increased dramatically in the Tampa DMA in recent years.

⁴ See *Amendment of the Commission's Rules Related to Retransmission Consent*, Report and Order and Further Notice of Proposed Rulemaking, 29 FCC Rcd. 3351 (2014).

⁵ See, e.g., *Fed. Trade Comm'n and U.S. Dep't of Justice, Antitrust Guidelines for Collaborations Among Competitors* § 3.31(a) (2000) (explaining that joint purchasing arrangements, even as between direct competitors, usually "do not raise antitrust concerns and indeed may be pro-competitive"); Nw. *Wholesale Stationers, Inc. v. Pac. Stationery & Printing Co.*, 472 U.S. 284, 295 (1985) ("Wholesale purchasing cooperatives . . . are not a form of concerted activity characteristically likely to result in predominantly anticompetitive effects.").

In filing their Reply Comments, the Affiliate Associations clearly are trying to maximize their retransmission consent leverage against Bright House Networks in the Tampa DMA and in each of the other markets in which Bright House Networks operates and has a much smaller share of the local MVPD marketplace. When all is said and done, the Affiliate Associations are seeking to enlist the Commission's help in imposing still higher retransmission consents fees on Bright House Networks, which will ultimately be borne by its customers in the form of higher retail rates. That result cannot possibly be in the public interest.

CONCLUSION

For the reasons set forth above, the Commission should reject the regulatory condition requested by the Affiliate Associations.

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